

DAMAGES FOR TRESPASS IN STATE PARKS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas V. Hatch

LONG TITLE

General Description:

This bill amends the civil damages provision for criminal trespass on state park lands to provide for single damages rather than treble damages.

Highlighted Provisions:

This bill:

- ▶ amends the civil damages provision for criminal trespass on state park lands to provide for single damages rather than treble damages; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-206.2, as enacted by Chapter 103, Laws of Utah 2004

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-6-206.2** is amended to read:

76-6-206.2. Criminal trespass on state park lands -- Penalties.

(1) For purposes of this section:

(a) "Authorization" means specific written permission by, or contractual agreement



with, the Division of Parks and Recreation.

(b) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.

(c) "Division" means the Division of Parks and Recreation, as referred to in Section ~~[63-11-3.1]~~ 63-11-17.1.

(d) "State park lands" means all lands administered by the division.

(2) A person is guilty of criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the person:

(a) constructs improvements or structures on state park lands;

(b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;

(c) knowingly or intentionally uses state park lands for commercial gain;

(d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or

(e) remains, after being ordered to leave by someone with actual authority to act for the division, or by a law enforcement officer.

(3) A person is not guilty of criminal trespass if that person enters onto state park lands:

(a) ~~[without]~~ after first paying the required fee; and

(b) for the sole purpose of pursuing recreational activity.

(4) A violation of Subsection (2) is a class B misdemeanor.

(5) In addition to restitution, as provided in Section 76-3-201, a person who commits any act described in Subsection (2) may also be liable for civil damages ~~[in the amount of three times]~~ for the value of:

(a) damages resulting from a violation of Subsection (2);

(b) the water, mineral, vegetation, improvement, or structure on state park lands that is removed, destroyed, used, or consumed without authorization;

(c) the historical, prehistorical, archaeological, or paleontological resource on state park lands that is removed, destroyed, used, or consumed without authorization; or

(d) the consideration which would have been charged by the division for unauthorized

59 use of the land and resources during the period of trespass.
60 (6) Civil damages under Subsection (5) may be collected in a separate action by the
61 division, and shall be deposited in the State Parks Fees Restricted Account as established in
62 Section 63-11-66.

Legislative Review Note
as of 12-20-04 10:49 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0099

Damages For Trespass In State Parks*17-Jan-05**10:14 AM*

State Impact

Provisions of this bill could reduce revenue to the General Fund Restricted - State Parks Fees Account, if the Division of Parks and Recreation wins civil actions against criminal trespassers. The final amount will be one third of that which could be awa

Individual and Business Impact

Provisions of this bill reduce the amount a person liable for civil damages will have to pay to the Division of Parks and Recreation by two thirds. The amount will depend on the civil damages involved. The amount cannot be estimated.

Office of the Legislative Fiscal Analyst